

Decision 03-03-010 March 13, 2003

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of the County of Kern for an Order authorizing construction of a crossing at separated grades between 7<sup>th</sup> Standard Road and the tracks of the Burlington Northern and Santa Fe Railway, sometimes referred to as the “7<sup>th</sup> Standard Road Overhead,” P.U.C. No. 2-899.5A.

Application 02-12-043  
(Filed December 23, 2002)

**O P I N I O N**

**Summary**

County of Kern (County), in cooperation with the City of Shafter (City), requests authority to construct the proposed 7<sup>th</sup> Standard Road Overhead grade-separated highway-rail crossing over The Burlington Northern and Santa Fe Railway Company’s (BNSF) one main line track and one spur track and over Santa Fe Way, in an unincorporated area of Kern County.

**Discussion**

County proposes to construct 7<sup>th</sup> Standard Road Overhead grade-separated highway-rail crossing to accommodate east-west traffic flow in the greater Bakersfield area of Kern County. This project involves replacing the existing 7<sup>th</sup> Standard Road at-grade highway-rail crossing of BNSF’s one main line track and one spur track and the vehicular intersection of 7<sup>th</sup> Standard Road and Santa Fe Way with a proposed grade-separated highway-rail crossing overhead of the BNSF right-of-way and Santa Fe Way. The proposed 7<sup>th</sup> Standard Road Overhead grade-separated highway-rail crossing will eliminate

delays caused by passing and switching trains for motorists on 7<sup>th</sup> Standard Road and will eliminate vehicular queuing associated with the track skew angle and the close proximity of the BNSF tracks to the intersection of 7<sup>th</sup> Standard Road and Santa Fe Way. Immediately north of the existing 7<sup>th</sup> Standard Road at-grade highway-rail crossing, the BNSF spur track has a turnout that services two operations south of the crossing. The exchange of train cars at these operations causes multiple train crossings, which results in delays for motorists at the existing 7<sup>th</sup> Standard Road at-grade highway-rail crossing.

7<sup>th</sup> Standard Road serves as an interregional route connecting Interstate 5 and State Route 99. All vehicle types, including a high percent of trucks, utilize 7<sup>th</sup> Standard Road. County expects that travel demand will increase significantly as development of metropolitan Bakersfield progresses to the west and of City to the south. County also expects truck volumes to increase considerably with the development of the International Trade and Transportation Center and the Target Distribution Center near the intersection of 7<sup>th</sup> Standard Road and Santa Fe Way.

Santa Fe Way runs parallel to the BNSF tracks at the existing 7<sup>th</sup> Standard Road at-grade highway-rail crossing. The intersection of 7<sup>th</sup> Standard Road and Santa Fe Way lies approximately 90 feet west of the BNSF tracks. The close proximity of the intersection of 7<sup>th</sup> Standard Road and Santa Fe Way to the existing 7<sup>th</sup> Standard Road at-grade highway-rail crossing presents a potential queuing situation for westbound trucks on westerly 7<sup>th</sup> Standard Road between the intersection and the BNSF tracks.

County and City plan to widen and improve 7<sup>th</sup> Standard Road from approximately one-half mile west of the existing 7<sup>th</sup> Standard Road at-grade highway-rail crossing to Coffee Road, located approximately five miles east of

the existing 7<sup>th</sup> Standard Road at-grade highway-rail crossing. The widening and improvement project, of which the proposed 7<sup>th</sup> Standard Road Overhead grade-separated highway-rail crossing is a part, will provide additional capacity needed to accommodate future vehicular traffic volumes. In the event County does not construct the proposed 7<sup>th</sup> Standard Road Overhead grade-separated highway-rail crossing, County and BNSF will have to widen the existing 7<sup>th</sup> Standard Road at-grade highway-rail crossing.

The proposed grade-separated highway-rail crossing will carry 7<sup>th</sup> Standard Road over BNSF's one main line track and one spur track and over Santa Fe Way by means of a cast in place, pre-stressed concrete box girder structure. The total length of the proposed 7<sup>th</sup> Standard Road Overhead grade-separated highway-rail crossing will be approximately 293 feet, from abutment to abutment. Superstructure, abutments and piers will be of reinforced concrete. The proposed 7<sup>th</sup> Standard Road Overhead grade-separated highway-rail crossing will carry four 12-foot vehicular lanes, one 4-foot median, and one 6-foot sidewalk.

During the period of construction, a proposed temporary detour roadway adjacent to the present traveled way will carry vehicular traffic across a proposed temporary detour roadway at-grade highway-rail crossing. Upon completion of the proposed temporary detour roadway at-grade highway-rail crossing and its opening to vehicular traffic, County will reroute vehicular traffic from the existing 7<sup>th</sup> Standard Road at-grade highway-rail crossing, which County and BNSF will permanently close, abandon, and physically remove, to the proposed temporary detour roadway at-grade highway-rail crossing. Upon completion of the proposed 7<sup>th</sup> Standard Road Overhead grade-separated highway-rail crossing and its opening to vehicular traffic, County will reroute vehicular traffic

from the proposed temporary detour roadway at-grade highway-rail crossing, which County and BNSF will permanently close, abandon, and physically remove, to the proposed 7<sup>th</sup> Standard Road Overhead grade-separated highway-rail crossing.

7<sup>th</sup> Standard Road Overhead project ranks number 38 in the 2002-2003 and 2003-2004 Grade Separation Priority List adopted by Decision (D.) 02-06-041, dated June 27, 2002, in Order Instituting Investigation (I.) 01-07-008. The Grade Separation Priority List prioritized the projects most urgently in need of grade separation, pursuant to Section 2452 of the California Streets and Highways Code, for the fiscal years July 1, 2002, to June 30, 2003, and July 1, 2003, to June 30, 2004.

County, in cooperation with City, is the lead agency for this project under the California Environmental Quality Act of 1970 (CEQA, as amended in 1982), as stated in Public Resources (PR) Code Section 21000 et seq. County filed with the Kern County Clerk a Notice of Exemption, which finds that the project has a Statutory Exemption from CEQA under PR Code Section 21080.13, which exempts from CEQA “Any railroad grade separation project which eliminates an existing grade crossing or which reconstructs an existing grade separation.” This project will eliminate the existing 7<sup>th</sup> Standard Road at-grade highway-rail crossing, CPUC Crossing No. 2-899.5. Attached to this order in Appendix A is a copy of the Notice of Exemption.

The Commission is a responsible agency for this project under CEQA. CEQA requires that the Commission consider that portion of the environmental consequences of a project within its area of expertise subject to its discretionary approval. In particular, to comply with CEQA, a responsible agency must consider the lead agency’s Environmental Impact Report or Negative Declaration

prior to acting upon or approving the project (CEQA Guideline Section 15050(b)). CEQA Guideline Section 15096 contains the specific activities that a responsible agency must conduct.

The Commission has reviewed and considered County's Statutory Exemption determination. We are not aware of any information that would suggest that County's exemption classification was inappropriate in this instance. We find that County reasonably concluded, pursuant to PR Code Section 21080.13, that the proposed grade-separation project qualifies for an exemption from CEQA. Accordingly, we adopt County's findings of exemption for purposes of our project approval.

The Commission's Consumer Protection and Safety Division – Rail Crossings Engineering Section (RCES) has inspected the sites of the existing 7<sup>th</sup> Standard Road at-grade highway-rail crossing, the proposed temporary detour roadway at-grade highway-crossing, and the proposed 7<sup>th</sup> Standard Road Overhead grade-separated highway-rail crossing project. After reviewing the need for and the safety of the proposed 7<sup>th</sup> Standard Road Overhead grade-separated highway-rail crossing, RCES recommends that the Commission grant County's request.

The Application is in compliance with the Commission's filing requirements, including Rule 38 of Rules of Practice and Procedure, which relates to the construction of public highway crossings and separations over a railroad. A site map and detailed drawings of the proposed 7<sup>th</sup> Standard Road Overhead grade-separated highway-rail crossing are shown in Appendix B attached to this order.

By letter dated January 16, 2003, the County's consulting engineers, Ruettgers and Schuler Civil Engineers, advised the Commission staff that County

intends to file a request to the California Transportation Commission (CTC) for funding through the Grade Separation Priority List program prior to the April 1, 2003, deadline. County therefore requests that the Commission waive the usual 30-day effective date of an order. The approval and effective dates of our order must occur prior to April 1, 2003, for the proposed project to qualify for Grade Separation Priority List program funding. We will make our order effective immediately.

In Resolution ALJ 176-3105, dated January 16, 2003, and published in the Commission Daily Calendar on January 17, 2003, the Commission preliminarily categorized this Application as ratesetting, and preliminarily determined that hearings were not necessary. Since no protests were filed and no hearings were held, this preliminary determination remains accurate. Given these developments, it is not necessary to disturb the preliminary determinations made in Resolution ALJ 176-3105. The Commission's Consumer Protection and Safety Division recommends that the Commission grant this Application.

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Public Utilities Code Section 311(g)(2), we waive the otherwise applicable 30-day period for public review and comment.

### **Assignment of Proceeding**

Richard Clark is the assigned Examiner in this proceeding.

### **Findings of Fact**

1. The Commission published Notice of the Application in the Commission Daily Calendar on January 2, 2003. There are no unresolved matters or protests; a public hearing is not necessary.

2. County, in cooperation with City, requests authority, under Public Utilities Code Sections 1201-1205, to construct the proposed 7<sup>th</sup> Standard Road Overhead

grade-separated highway-rail crossing over BNSF's one main line track and one spur track and over Santa Fe Way, in an unincorporated area of Kern County.

3. The construction of the proposed 7<sup>th</sup> Standard Road Overhead grade-separated highway-rail crossing is required to reduce traffic delays and congestion created by passing and switching trains for motorists on 7<sup>th</sup> Standard Road and will eliminate vehicular queuing associated the track skew angle and the close proximity of the BNSF tracks to the intersection of 7<sup>th</sup> Standard Road and Santa Fe Way.

4. Public convenience, necessity, and safety require construction of 7<sup>th</sup> Standard Road Overhead grade-separated highway-rail crossing.

5. The 7<sup>th</sup> Standard Road Overhead project ranks number 38 on the 2002-2003 and 2003-2004 Grade Separation Priority List adopted by D.02-06-041, dated June 27, 2002, in I.01-07-008. The Grade Separation Priority List prioritized the projects most urgently in need of grade separation, pursuant to Section 2452 of the Streets and Highways Code, for the fiscal years July 1, 2002, to June 30, 2003, and July 1, 2003, to June 30, 2004.

6. During the period of construction, a proposed temporary detour roadway at-grade highway-rail crossing will carry vehicular traffic over the BNSF tracks. Upon completion of the proposed temporary detour roadway at-grade highway-rail crossing and its opening to vehicular traffic, County and BNSF will permanently close, abandon, and physically remove the existing 7<sup>th</sup> Standard Road at-grade highway-rail crossing, CPUC Crossing No. 2-899.5. Upon completion of the proposed 7<sup>th</sup> Standard Road Overhead grade-separated highway-rail crossing and its opening to vehicular traffic, County and BNSF will permanently close, abandon, and physically remove the proposed temporary detour roadway at-grade highway-rail crossing.

7. Public convenience, necessity, and safety require that County ensure, with the cooperation of BNSF, the installation of two Standard No. 9 (flashing light signals with automatic gates, as defined in Commission General Order 75-C) warning devices, at the proposed temporary detour roadway at-grade highway-rail crossing and ensure the installation of two Standard No. 9 warning devices at the existing 7<sup>th</sup> Standard Road at-grade highway-rail crossing, CPUC Crossing No. 2-899.5; except upon completion of the proposed temporary detour roadway at-grade highway-rail crossing and its opening to vehicular traffic, BNSF will remove all warning devices at the existing 7<sup>th</sup> Standard Road at-grade highway-rail crossing. Upon completion of the proposed 7<sup>th</sup> Standard Road Overhead grade-separated highway-rail crossing and its opening to vehicular traffic, BNSF will remove all warning devices at the proposed temporary detour roadway at-grade highway-rail crossing.

8. County, in cooperation with City, is the lead agency for this project under CEQA, as amended.

9. County filed on January 22, 2003, a Notice of Exemption exempting this project from CEQA review as a Statutory Exemption under PR Code Section 21080.13, which exempts from CEQA “Any railroad grade separation project which eliminates an existing grade crossing or which reconstructs an existing grade separation.” This project will eliminate the existing 7<sup>th</sup> Standard Road at-grade highway-rail crossing, CPUC Crossing No. 2-899.5.

10. The Commission is a responsible agency for this project and has reviewed and considered the County’s Statutory Exemption determination.

11. The approval and effective dates of the Commission’s order must occur no later than April 1, 2003, for the proposed project to qualify for Grade Separation Priority List program funding.



### **Conclusions of Law**

1. We believe the County reasonably concluded, pursuant to PR Code Section 21080.13, that the proposed 7<sup>th</sup> Standard Road Overhead grade-separated highway-rail crossing project is exempt from CEQA.
2. We waive the usual 30-day effective date of an order as County intends to file a request to the CTC through the Grade Separation Priority List program prior to the April 1, 2003, deadline.
3. The Application should be granted as set forth in the following order.

### **O R D E R**

#### **IT IS ORDERED** that:

1. County of Kern (County), in cooperation with the City of Shafter (City), is authorized to construct the proposed 7<sup>th</sup> Standard Road Overhead grade-separated highway-rail crossing over the tracks of The Burlington Northern and Santa Fe Railway Company's (BNSF) one main line track and one spur track and over Santa Fe Way, in an unincorporated area of Kern County within western metropolitan Bakersfield, at the location and substantially as shown by plans attached to the Application and Appendix B of this order, identified as CPUC Crossing No. 2-899.46-A.
2. During the period of construction, County and BNSF may construct a proposed temporary detour roadway at-grade highway-rail crossing to carry vehicular traffic over the BNSF tracks. Upon completion of the proposed temporary detour roadway at-grade highway-rail crossing and its opening to vehicular traffic, County and BNSF shall permanently close, abandon, and physically remove the existing 7<sup>th</sup> Standard Road at-grade highway-rail crossing, CPUC Crossing No. 2-899.5. Upon completion of 7<sup>th</sup> Standard Road Overhead grade-separated highway-rail crossing and its opening to vehicular traffic,

County and BNSF shall permanently close, abandon and physically remove the proposed temporary detour roadway at-grade highway-rail crossing.

3. During the period of construction, County shall ensure, with the cooperation of BNSF, the installation of two Standard No. 9 (flashing light signals with automatic gates, as defined in Commission General Order (GO) 75-C) warning devices, at the temporary detour roadway at-grade highway-rail crossing and ensure the installation of two Standard No. 9 warning devices at the existing 7<sup>th</sup> Standard Road at-grade highway-rail crossing, CPUC Crossing No. 2-899.5; except upon completion of the proposed temporary detour roadway at-grade highway-rail and its opening to vehicular traffic, BNSF shall remove all warning devices at the existing 7<sup>th</sup> Standard Road at-grade highway-rail crossing. Upon completion of the proposed 7<sup>th</sup> Standard Road Overhead grade-separated highway-rail crossing and its opening to vehicular traffic, BNSF shall remove all warning devices at the proposed temporary detour roadway at-grade highway-rail crossing.

4. Clearances shall conform to GO 26-D, except that during the period of construction the Commission authorizes a temporary impaired vertical clearance of not less than 21 feet, 0 inches above top of rail. The Commission authorizes BNSF to operate with such reduced overhead clearance provided that the railroad issues instructions and files, with Commission's Rail Crossings Engineering Section (RCES), the instructions forbidding employees to ride on tops of cars beneath the structure.

5. County shall notify RCES and BNSF at least 15, but not more than 30, days in advance of the date of the creation of the temporary impaired clearances.

6. Walkways shall conform to GO 118. County and BNSF shall maintain walkways adjacent to any trackage subject to rail operations free of obstructions

and shall promptly restore walkways to their original condition in the event of damage during construction.

7. County, in cooperation with City, and BNSF shall borne construction and maintenance costs in accordance with an agreement between County and BNSF (parties). County shall file a copy of the agreement, together with plans approved by BNSF, with RCES prior to commencing construction. Should the parties fail to agree, the Commission shall apportion the costs of construction and maintenance by further order.

8. Within 30 days after completion of the work under this order, BNSF shall notify RCES in writing, by submitting a completed standard Commission Form G (Report of Changes at Highway Grade Crossings and Separations), of the completion of the authorized work.

9. This authorization shall expire if not exercised within three years unless time is extended or if the above conditions are not complied with. The Commission may revoke or modify authorization if public convenience, necessity or safety so require.

10. The Application is granted as set forth above.

11. Application 02-12-043 is closed.

This order is effective today.

Dated March 13, 2003, at San Francisco, California.

MICHAEL R. PEEVEY  
President  
CARL W. WOOD  
LORETTA M. LYNCH  
GEOFFREY F. BROWN  
SUSAN P. KENNEDY

Commissioners

# APPENDIX A

## ENVIRONMENTAL DOCUMENT

Form D

**Notice of Exemption**

To: ☐ Office of Planning and Research  
PO Box 3044, 1400 Tenth Street, Room 222  
Sacramento, CA 95812-3044

☒ County Clerk  
County of Kern  
2215 Truxtun Ave., 1st Floor  
Bakersfield, CA 93301

From: (Public Agency) County of Kern - Roads  
2700 "M" Street, Suite 400  
Bakersfield, CA 93301  
(Address)

Project Title: 7th Standard Road Overhead

Project Location - Specific:  
The project is located at the intersection and vicinity of 7th Standard Road at the Burlington Northern and Santa Fe Railway (BNSF), PUC Crossing No. 2-893.8, immediately east of Santa Fe Way in the unincorporated area of Kern County and adjacent to the southern boundary of the City of Shafter.

Project Location - City: Shafter Project Location - County: Kern

Description of Project:  
The County of Kern proposes to construct a railroad overhead on 7th Standard Road at the separate right-of-way and tracks of the Burlington Northern and Santa Fe Railway (BNSF) crossing. The proposed overhead structure will carry 7th Standard Road over the BNSF's mainline track and spur tracks, by means of a cast in place, post-tensioned concrete box girder structure. The total length of the overhead will be about 230 feet. From abutment to abutment four 12-foot vehicular lanes, two 8-foot shoulders, one 4-foot median and one 6-foot sidewalk will be carried through the proposed overhead. The project will relieve traffic congestion and provide safety for the general public.

Name of Public Agency Approving Project: County of Kern - Board of Supervisors

Name of Person or Agency Carrying Out Project: City of Shafter in cooperation w/ the County of Kern

Exempt Status: (check one)  
☐ Ministerial (Sec. 21080(b)(1); 15268)  
☐ Declared Emergency (Sec. 21080(b)(3); 15269(a));  
☐ Emergency Project (Sec. 21080(b)(4); 15269(b)(c));  
☐ Categorical Exemption. State type and section number: \_\_\_\_\_  
☒ Statutory Exemption. State code number: Section 21080.13

Reasons why project is exempt:  
Section 21080.13 of the California Environmental Quality Act of 1970, as amended in 1992, Public Resources Code (CRA), exempts from the provisions of CEQA, "any railroad grade separation project which eliminates an existing grade crossing or which reconstructs an existing grade separation." Since the proposed separation eliminates an existing grade crossing, the guidelines in Cal. Admin. Code, Division 61 concerning the evaluation of projects and the preparation and review of environmental documents do not apply.

Lead Agency  
Contact Person: Jane Talbot Area Code/Telephone/Extension: (561) 852-8898

If filed by applicant:  
 1. Attach certified document of exemption finding.  
 2. Has a Notice of Exemption been filed by the public agency approving the project? ☐ Yes ☐ No

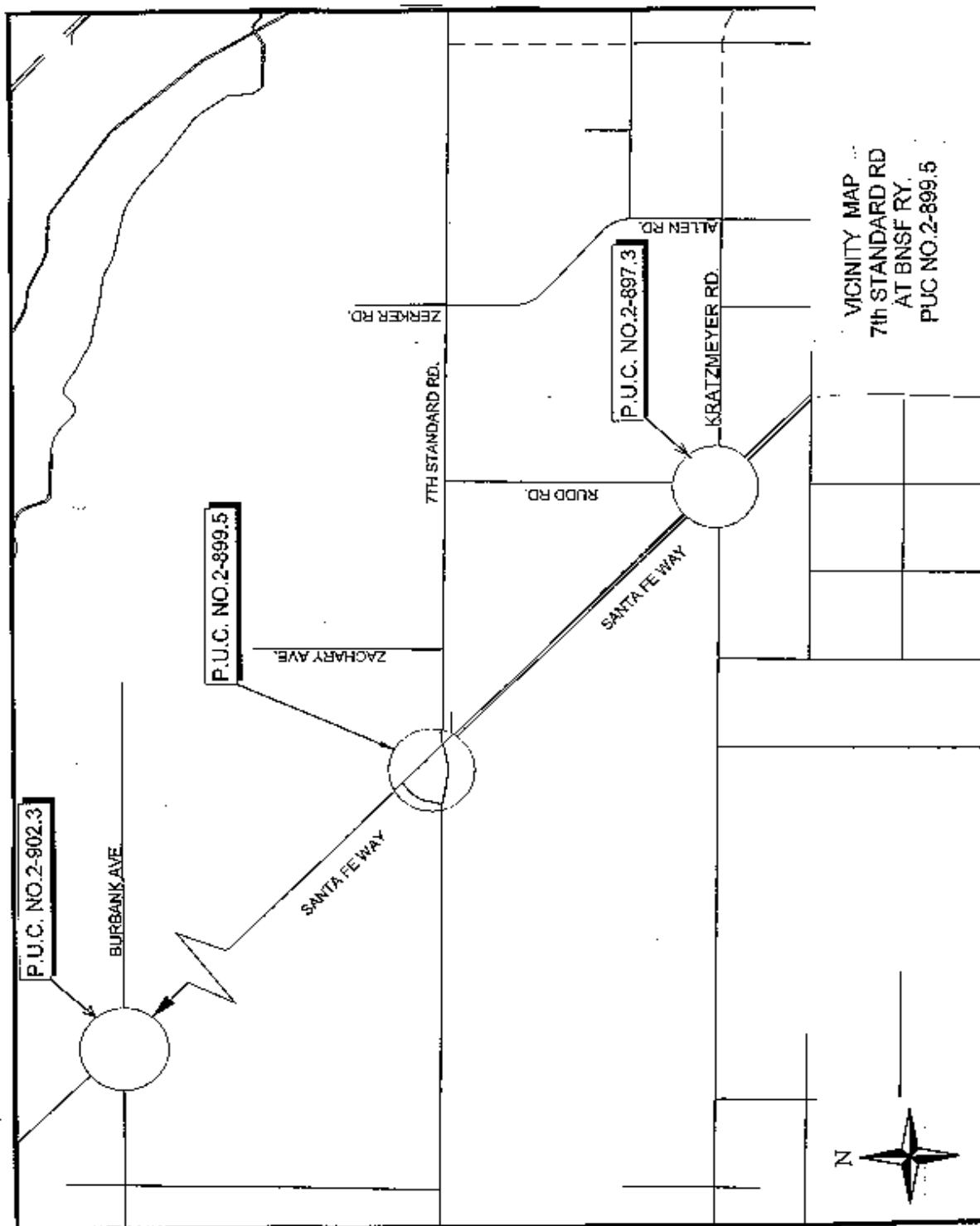
Signature: Craig M. Pope Date: 1-22-03 Title: Director  
☒ Signed by Lead Agency  
☐ Signed by Applicant

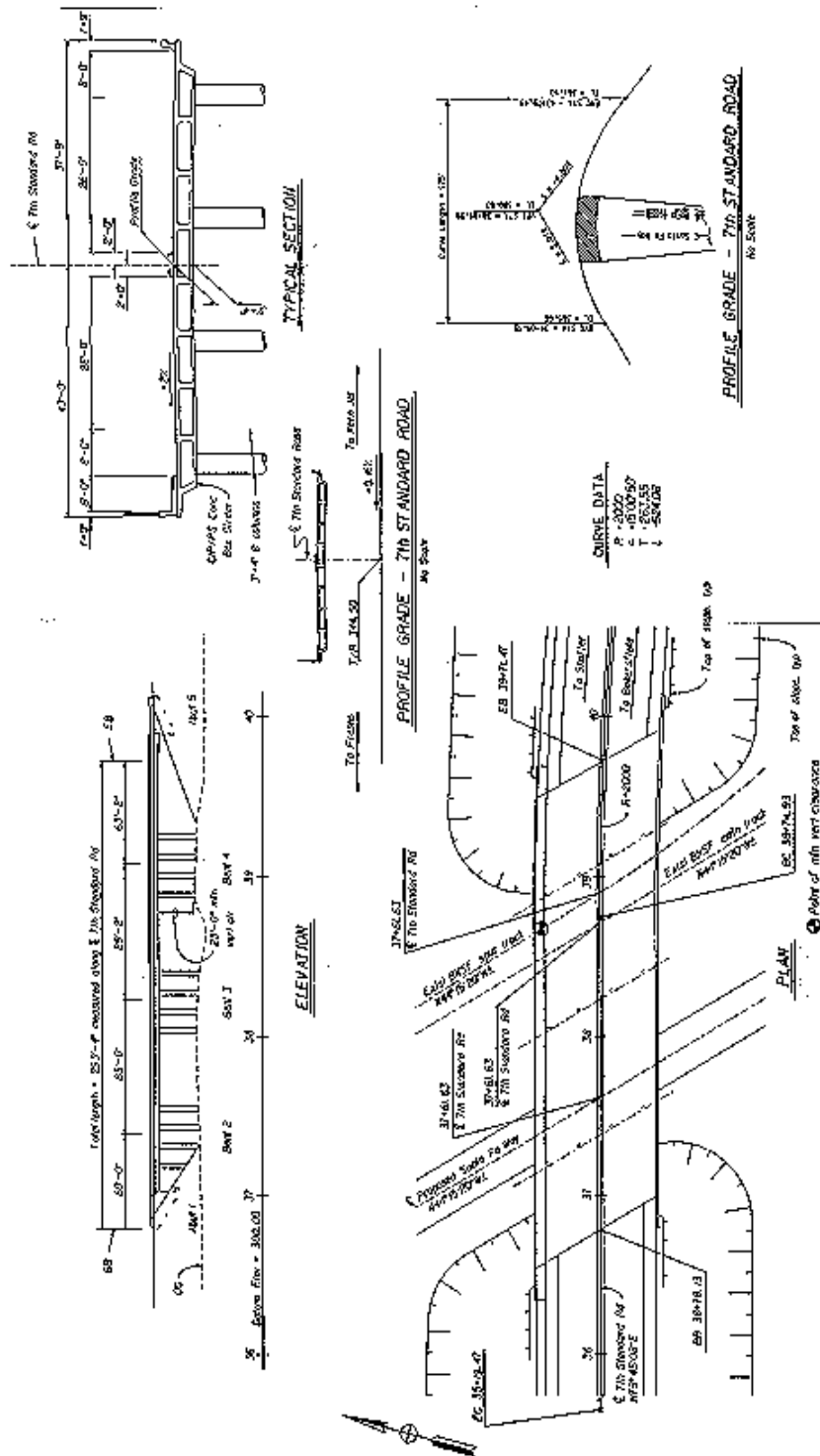
Date received for filing at OPR: \_\_\_\_\_

Governor's Office of Planning and Research

Revised May 1999

**APPENDIX B**  
**PLANS**





COUNTY OF KERN

7TH STANDARD ROAD OVERHEAD  
B.N. & S.F. RY. PUC NO. 2-899.51  
GENERAL PLAN AND ELEVATION